

THE CLIENT INTERVIEW: A TOPICAL CHECKLIST¹

In developing mitigation for post-*Booker* sentencings, our clients are often our best and most-accessible source of information. In the abstract, the mitigation possibilities seem endless, and it may be difficult to decide what to ask our clients and how to ask it. This checklist is designed to give you some guidance. Although it is not intended as a script for client interviews, it may be useful for attorneys to review the checklist in connection with each case as a brainstorming tool.

In collecting information from clients, remember two important principles: First, try not to be too result-oriented. Sometimes, you just have to listen and let the client take the interview where he/she wants to go. You will not elicit much useful information if you exert too much control in the conversation. Second, be alert to verbal and non-verbal cues suggesting abuse, mental illness, or cognitive impairment. See Deana Logan, *Learning to Observe Signs of Mental Impairment* (distributed in connection with May 2005 CJA Panel Training). Sometimes, your client won't be able to tell you what's mitigating, but you'll discern it through careful observation.

If you have any questions about a client's response to questions or a behavior you observe, you may want to consult the library of materials on mental health issues in criminal cases and conducting mitigation investigation, assembled by Assistant Federal Public Defenders Denise Barrett and Frank Draper, and available at the FPD's Baltimore office. Also consider consulting a social worker, a mitigation specialist, or a mental health professional.

Initial Interview

This basic information should be collected early on (at the initial appearance, if possible). These are the questions asked at intake by Assistant Federal Public Defenders. The answers provide the basis for establishing a "family liaison" (a close friend or family member of the client who can become an ally for the attorney during the investigation & litigation), and beginning the investigation (ordering basic documents such as education, criminal, and medical records).

- ☐ Charged name
- ☐ Legal name
- ☐ Other names used
- ☐ Age
- ☐ Date of birth
- ☐ Place of birth
- ☐ SSN
- ☐ Immigration status

¹ This checklist is adapted from materials prepared by the Office of the Federal Public Defender, Scharlette Holdman, and the Louisiana Capital Defense Project.

- ☐ Address
- ☐ With whom living
- ☐ Marital status
- ☐ Name/address/phone of spouse
- ☐ Name/address/phone of children
- ☐ Name/address/phone of other relatives/friends

- ☐ Employment
- ☐ Name/address/phone of employer
- ☐ Military record
- ☐ Schools attended
- ☐ Highest grade completed

- ☐ Current medical needs

- ☐ Pending cases
- ☐ Detainers
- ☐ FTAs
- ☐ Probation/Parole (& supervising officer)
- ☐ Past arrests/convictions

- ☐ Arrest date/time/place
- ☐ By whom arrested
- ☐ Circumstances of searches/seizures (consent, warrant, auto, etc.)
- ☐ Witnesses to arrest
- ☐ Others arrested
- ☐ Circumstances of any statements (oral, written, read rights, invoke rights, length, place, method of interrogation)
- ☐ When taken to magistrate

At the initial meeting, also have the client complete release of information forms (copies distributed in connection with May 2005 CJA Training), so you can easily retrieve records now and later on.

Subsequent Interviews

During subsequent interviews, you'll have the chance to get to know your client and his/her history. When you visit to discuss an upcoming court date or a development in the case, try to take the time to ask how the client is doing and to make some simple observations about his/her condition. Also try to introduce one or more of the topics listed below. Try to cover all of these areas over time so that you can be sure you've done a thorough mitigation investigation.

As follow-up to your client interviews, gather information from other sources, including friends, family, teachers, neighbors, employers, coworkers, coaches, counselors, etc. Records also contain invaluable information and frequently corroborate information obtained from the